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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,095	02/22/2002	David Allen Loewenstein		2840

7590 06/18/2003  
David A. Loewenstein  
802 King Street  
Rye Brook, NY 10573

EXAMINER

COLLINS, DOLORES R

ART UNIT PAPER NUMBER

3711

DATE MAILED: 06/18/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

# Office Action Summary

Application No.

10/081,095

Applicant(s)

LOEWENSTEIN, DAVID ALLEN

Examiner

Dolores R. Collins

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

Examiner acknowledges response by applicant's representative received 4/11/03. Examiner further acknowledges the corrections/clarifications made to address the issues of the first action.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6 & 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Silliman, Jr.

Silliman, Jr. discloses Playing Cards And Games. His cards teach a value on one side and suit and value on the other.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Silliman, Jr. in view of Hoyt et al.

Regarding claim 2

Silliman, Jr. discloses Playing Cards And Games. His cards teach a value on one side and suit and value on the other, but fail to explicitly teach cards with a non-descriptive back.

Hoyt et al. discloses Playing Cards And Method For Playing card Games Therewith. Hoyt teaches the limitation that Silliman fails to teach, i.e., a deck of playing cards where some cards are standard cards with non-descriptive backs (see abstract, claims 3-10 & figures 1-3). It would be obvious in view of Hoyt to include cards with non-descriptive backs to add variety to the cards and add excitement to the game.

Claims 3-5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Silliman, Jr. in view of Stanton and further in view of Hoyt et al.

Regarding claims 3-5

Silliman, Jr. discloses Playing Cards And Games. His cards teach a value on one side and suit and value on the other, but fail to explicitly teach that his cards are dealt in the shape of a diamond.

Stanton discloses Improvements in and relating to Playing cards. Stanton teaches cards with arranged into four suits on one side and values on the other side (page 1, lines 14-24 & figures 1-4).

It would be obvious in view of Stanton to arrange the card to add excitement to the game played by the players.

Further, It would be obvious to deal cards in whatever shape that is desired since shape would constitute a design issue. Additionally, the dealing of cards in various shapes is well known in the art (e.g. in the game of *Memory* cards are dealt in the shape of a square, in the game of *Solitaire*, cards are ultimately dealt in the shape of a triangle.

Both § Silliman, Jr. and Stanton fail to explicitly teach the exchanging of cards between hands and players being paid off according to a paytable.

Hoyt teaches game of poker played as one of the embodiments and that his cards are dealt certain locations and specific to the game of Tic-Tac-Toe. It is known that in the game of poker, cards are dealt face down, one or more bets are made, players are allowed to modify hands by exchanging cards and games are resolved using paytables.

It would be further obvious in view of Hoyt to include his explicit to add excitement to the game played by the players.

Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over S, Gilliman, Jr. as applied to claim 6 above, and further in view of Hoyt and Moody.

Hoyt teaches game of poker played as one of the embodiments and that his cards are dealt certain locations and specific to the game of Tic-Tac-Toe. It is known that in the game of poker, cards are dealt face down, one or more bets are made, players are allowed to modify hands by exchanging cards and games are resolved using paytables. Hoyt fails to explicitly teach dealing multiple rows of five cards or rows with varying numbers of cards for game play.

Moody discloses Electronic Video Poker Game, which deals multiple rows and varying numbers of cards for his game (see figures, abstract and claims). It would be obvious in view of Moody to modify the method of Hoyt to add excitement for the players.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over S, Gilliman, Jr.

Regarding claim 13

Silliman, Jr. discloses Playing Cards And Games. His cards teach a value on one side and suit and value on the other, but fail to explicitly teach cards with a non-descriptive back. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structure.

Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over §  
Gilliman, Jr. as applied to claim 13 above, and further in view of Moody.

Moody discloses Electronic Video Poker Game, which deals multiple rows and varying numbers of cards for his game (see figures, abstract and claims). It would be obvious in view of Moody to use his method of play to add excitement for the players.

### ***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hoyt et al. (155), Weigl, Smith, jr. and Smith are cited to show the state of art with respect to features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ***Dolores R. Collins*** whose telephone number is ***(703) 308-8352***. The examiner can normally be reached on 9:00 A.M. - 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ***PAUL SEWELL*** can be reached on ***(703) 308-2126***. The fax phone numbers for the organization where this application or proceeding is assigned are ***(703) 305-3579*** for regular communications and ***(703) 305-3579*** for After Final communications.

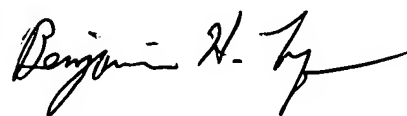
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is **(703) 308-1148**.

  
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June 14, 2003



Benjamin H. Layno  
Primary Examiner